

## REMARKS

Claims 1-11 are pending in the Application with claims 2 and 4-7 having been previously withdrawn. Claim 1 is respectfully amended with this Response. The Examiner's rejections will now be respectfully addressed in turn.

### Claim Rejections Under 35 U.S.C. §112, second paragraph

Claims 1, 3, and 8-11 are rejected under 35 U.S.C. §112, first paragraph as allegedly being indefinite. In Response, Applicant respectfully amends claim 1.

### Claim Rejections Under 35 U.S.C. §102(b) or 103(a)

Claims 1, 3, and 8-11 are rejected under 35 U.S.C. 102(b) as being anticipated by, or alternatively under 35 U.S.C. 103(a) as being obvious over United States Patent No. 2,483,861 to Weiss. Applicant respectfully traverses this rejection.

Applicant notes that "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Furthermore, for an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art and that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996).

Applicant's claim 1 recites, *inter alia*,

"these two yarns being woven or knitted so as to define at least two separate portions in the

thickness of the fabric, a first outer portion predominantly of technical yarn and a second inner portion predominantly of comfort yarn.”

Weiss fails to teach a fabric with yarns woven or knitted so as to define at least two distinct separate portions in the thickness of the fabric, a first outer portion predominantly of technical yarn and a second inner portion predominantly of comfort yarn. On the contrary, Weiss teaches a two component *yarn* (as discussed at column 3, lines 39-51), but fails to teach a *fabric* that includes the two types of yarns and is woven to include an outer portion predominantly of one type of yarn (the technical type) and an inner portion predominantly of the other type yarn (the comfort type). For at least this reason, Applicant respectfully asserts that Weiss fails to teach every element of Applicant’s claims 1, 3, and 8-11.

Accordingly, Applicant respectfully submits that Weiss does not anticipate Applicant’s claims 1, 3, and 8-11, and respectfully submits that *prima facie* obviousness does not exist regarding claim 1, 3, and 8-11 with respect to Weiss.

Claims 1, 3, and 8-11 are also rejected under 35 U.S.C. 102(b) as being anticipated by, or alternatively under 35 U.S.C. 103(a) as being obvious over United States Patent No. 3,828,544 to Alker. Applicant respectfully traverses this rejection.

Applicant notes that “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Furthermore, for an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art and that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed.

Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996).

Applicant's claim 1 recites, *inter alia*,

"these two yarns being woven or knitted so as to define at least two separate portions in the thickness of the fabric, a first outer portion predominantly of technical yarn and a second inner portion predominantly of comfort yarn."

Alker fails to teach a fabric with yarns woven or knitted so as to define at least two distinct separate portions in the thickness of the fabric, a first outer portion predominantly of technical yarn and a second inner portion predominantly of comfort yarn. On the contrary, Alker teaches a two component *yarn* (as shown at Figure 3), but fails to teach a *fabric* that includes the two types of yarns and is woven to include an outer portion predominantly of one type of yarn (the technical type) and an inner portion predominantly of the other type yarn (the comfort type). For at least this reason, Applicant respectfully asserts that Alker fails to teach every element of Applicant's claims 1, 3, and 8-11.

Accordingly, Applicant respectfully submits that Alker does not anticipate Applicant's claims 1, 3, and 8-11, and respectfully submits that *prima facie* obviousness does not exist regarding claim 1, 3, and 8-11 with respect to Alker.

Conclusion

All of the objections and rejections are herein overcome. In view of the foregoing, it is respectfully submitted that the instant application is in condition for allowance. No new matter is added by way of the present Amendments and Remarks, as support is found throughout the original filed specification, claims and drawings. Prompt issuance of Notice of Allowance is respectfully requested.

The Examiner is invited to contact Applicant's attorney at the below listed phone number regarding this response or otherwise concerning the present application.

Applicant hereby petitions for any extension of time necessary under 37 C.F.R. 1.136(a) or 1.136(b) for entry and consideration of the present Reply.

If there are any charges due with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130 maintained by Applicant's attorneys.

Respectfully submitted,

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